



DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0149]

[Docket No. 2018-0003; Sequence No. 16]

**Information Collection; Subcontract Consent and Contractors'
Purchasing System Review**

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, the FAR Council invites the public to comment upon a renewal concerning consent to subcontract, advance notification, and Contractors' purchasing system review.

DATES: Submit comments on or before **[Insert date 60 days after date of publication in the *Federal Register*.]**

ADDRESSES: The FAR Council invites interested persons to submit comments on this collection by either of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field or attach a file for lengthier comments.

Go to <http://www.regulations.gov> and follow the instructions on the site.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 9000-0149, Subcontract Consent and Contractors' Purchasing System Review.

Instructions: All items submitted must cite Information Collection 9000-0149, Subcontract Consent and Contractors' Purchasing System Review. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, at <http://www.regulations.gov>.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail). This information collection is pending at the FAR Council. The Council will submit it to OMB within 60 days from the date of this notice.

FOR FURTHER INFORMATION CONTACT: Ms. Zenaida Delgado,
Procurement Analyst, at telephone 202-969-7207, or email
zenaida.delgado@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Overview of Information Collection

Description of the Information Collection

1. *Type of Information Collection:* Revision/Renewal of a currently approved collection.
2. *Title of the Collection --* Subcontract Consent and Contractors' Purchasing System Review
3. *Agency form number, if any:* -- N/A

Solicitation of Public Comment

Written comments and suggestions from the public should address one or more of the following four points:

- (1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

B. Purpose

This information collection requirement, OMB Control No. 9000-0149, currently titled "Subcontract Consent," is proposed to be retitled "Subcontract Consent and Contractors' Purchasing System Review," due to consolidation with currently approved information collection requirement OMB Control No. 9000-0132, Contractors' Purchasing System Review.

This clearance covers the information that a contractor must submit to comply with the requirements in Federal Acquisition Regulation (FAR) 52.244-2, Subcontracts, regarding consent to subcontract, advance notification, and Contractors' purchasing system review as follows:

- 1. Consent to subcontract.** This is the contracting officer's written consent for the prime contractor to enter into a particular subcontract. In order for the contracting officer responsible for consent to make an

informed decision, the prime contractor must submit adequate information to ensure that the proposed subcontract is appropriate for the risks involved and consistent with current policy and sound business judgment. The review allows the Government to determine whether the contractor's purchasing policies and practices are efficient and adequately protect the Government's interests.

If the contractor has an approved purchasing system, consent is required for subcontracts specifically identified by the contracting officer in the subcontracts clause of the contract. The contracting officer may require consent to subcontract if the contracting officer has determined that an individual consent action is required to protect the Government adequately because of the subcontract type, complexity, or value, or because the subcontract needs special surveillance. These can be subcontracts for critical systems, subsystems, components, or services.

If the contractor does not have an approved purchasing system, consent to subcontract is required for cost-reimbursement, time-and-materials, labor-hour, or letter contracts, and also for unpriced actions under fixed-price

contracts that exceed the simplified acquisition threshold.

2. Advance notification. Prime contractors must provide contracting officers notification before the award of any cost-plus-fixed-fee subcontract, or certain fixed-price subcontracts. This requirement for advance notification is driven by statutory requirements in 10 U.S.C. 2306 and 41 U.S.C. 3905.

3. Contractors' Purchasing System Review. The objective of a contractor purchasing system review (CPSR), is to evaluate the efficiency and effectiveness with which a contractor spends Government funds and complies with Government policy when subcontracting.

Paragraph (i) of FAR clause 52.244-2 specifies that the Government reserves the right to review the contractor's purchasing system as set forth in FAR subpart 44.3.

FAR 44.302 requires the administrative contracting officer (ACO) to determine the need for a CPSR based on, but not limited to, the past performance of the contractor, and the volume, complexity and dollar value of subcontracts. If a contractor's sales to the Government (excluding competitively awarded firm-fixed-price and competitively awarded fixed-price with economic price adjustment contracts and sales of commercial items pursuant to Part

12) are expected to exceed \$25 million during the next 12 months, the ACO will perform a review to determine if a CPSR is needed. Sales include those represented by prime contracts, subcontracts under Government prime contracts, and modifications. Generally, a CPSR is not performed for a specific contract. The head of the agency responsible for contract administration may raise or lower the \$25 million review level if it is considered to be in the Government's best interest. Once an initial determination has been made to conduct a review, at least every three years the ACO shall determine whether a purchasing system review is necessary. If necessary, the cognizant contract administration office will conduct a purchasing system review.

A CPSR provides the administrative contracting officer (ACO) a basis for granting, withholding, or withdrawing approval of a contractor's purchasing system. An approved purchasing system allows the contractor more autonomy in subcontracting actions. Without an approved purchasing system more Government oversight is necessary, and Government consent to subcontract is required. Generally, a CPSR is not performed for a specific contract. Rather, CPSRs are conducted on contractors based on the

factors identified above. For example, the Defense Contract Management Agency (DCMA) Contractor Purchasing System Review Group is a group dedicated to conducting CPSRs for the Department of Defense. As of June 2014 the group's review workload included more than 700 contractors worldwide.

The cognizant ACO is responsible for granting, withholding, or withdrawing approval of a contractor's purchasing system and for promptly notifying the contractor of same (FAR 44.305-1).

Related administrative requirements are as follows:

FAR 44.305-2(c) requires that when recommendations are made for improvement of an approved system, the contractor shall be requested to reply within 15 days with a position regarding the recommendations.

FAR 44.305-3(b) requires when approval of the contractor's purchasing system is withheld or withdrawn, the ACO shall within 10 days after completing the in-plant review (1) inform the contractor in writing, (2) specify the deficiencies that must be corrected to qualify the system for approval, and (3) request the contractor to furnish within 15 days a plan for accomplishing the necessary actions. If the plan is accepted, the ACO shall make a

follow-up review as soon as the contractor notifies the ACO that the deficiencies have been corrected.

C. Annual Reporting Burden

1. Consent to subcontract.

Respondents: 2,578.
Responses Per Respondent: 3.
Total Annual Responses: 7,734.
Hours Per Response: 3.
Total Burden Hours: 23,202.

2. Advance notification.

Respondents: 1,861.
Responses Per Respondent: 3.
Total Annual Responses: 5,583.
Hours Per Response: 0.25.
Total Burden Hours: 1,396.

3. Contractors' Purchasing System Review.

Respondents: 1,050.
Responses Per Respondent: 1.
Total Annual Responses: 1,050.
Hours Per Response: 25.
Total Burden Hours: 26,250.

4. Summary.

Respondents: 5,489.

Total Annual Responses: 14,367.

Total Burden Hours: 50,848.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

OBTAINING COPIES: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, NW, Washington, DC 20405, telephone 202-501-4755. Please cite OMB Control No. 9000-0149, Subcontract Consent and Contractors' Purchasing System Review, in all correspondence.

Dated: August 20, 2018.

William Clark,
Director,
Office of Governmentwide
Acquisition Policy,
Office of Acquisition Policy,
Office of Governmentwide Policy.

BILLING CODE: 6820-EP

[FR Doc. 2018-18280 Filed: 8/22/2018 8:45 am; Publication Date: 8/23/2018]